

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
)
)
)
VS.)
)
SHANE DOYLE,)
Defendant.)
)
)

Docket No. 09-CR-10035-DPW

SHANE DOYLE'S MOTION TO CONTINUE SENTENCING

Defendant Shane Doyle respectfully moves this Court to continue his sentencing from January 14, 2010, to a date consistent with the purpose of this motion; i.e., to allow Mr. Doyle the opportunity to obtain the full measure of the substantial assistance that he has, and is continuing to provide to the government. In support of this motion, Mr. Doyle states as follows:

- (1) The government does not oppose this Motion.
- (2) Shane Doyle pled guilty to one count of misbranding a medical device in violation of 21 U.S.C. §§ 331(a) and 333(a)(2) on April 14, 2009. Mr. Doyle entered into a plea agreement with the government and is cooperating as part of that agreement.
- (3) Sentencing is currently scheduled for January 14, 2010.
- (4) Sentencing was originally scheduled to occur on July 23, 2009. The parties jointly moved to continue the sentencing on June 3, 2009 for reasons stated in that motion which was filed under seal. This court granted the parties' joint motion to continue the sentencing on June 8, 2009 and held a status conference on July 23, 2009.

(5) Mr. Doyle has been cooperating with the United States in ongoing investigations, including its ongoing investigation of his former employer, identified in the Information as XYZ Corp., and certain current and former employees of that company. Since the date of the status conference, XYZ Corp. (Stryker Biotech, LLC) and four senior executives have been indicted for various violations. See *United States v. Stryker Biotech et al.*, 09-CR-10330. Mr. Doyle's cooperation aided in bringing the indictment.

(6) Although no trial date has been set in the *Stryker* case, the government and Mr. Doyle anticipate that his testimony will be sought at that trial.

(7) Three other former Stryker employees have also entered guilty pleas pursuant to plea and cooperation agreements. *United States v. Martin*, 08-CR-10338-WGY; *United States v. Demming*, 08-CR-10379-NG, and *United States v. Ring*, 09-CR-10096-MLW). Upon joint motions of the parties in those cases, sentencing has been continued, in at least two of those cases, to dates in April 2010.

(8) In this case, the government has now filed a motion pursuant to 5K.1 for a downward departure. However, because Mr. Doyle's sentencing is currently scheduled to take place before he has the opportunity to testify at the *Stryker* trial, it may be that Mr. Doyle will face sentencing before the government can measure his cooperation in full.

(9) Mr. Doyle therefore respectfully requests a continuance of his sentencing to a date after the Stryker trial. Such a continuance is in the interest of both parties and the Court, in that it will: (a) allow Mr. Doyle and the government to obtain the full measure of his cooperation; and (b) allow the Court to incorporate all of Mr. Doyle's cooperation into his sentence.

WHEREFORE, Mr. Doyle respectfully requests a continuance of his sentencing date.

Respectfully submitted,

Shane Doyle
By his attorneys,

/s/ Jennifer M. Ryan
Jennifer M. Ryan (BBO #661498)
Paul R. Cirel (BBO #084320)
Dwyer & Collora, LLP
600 Atlantic Avenue
Boston, MA 02210
(617) 371-1000
jryan@dwyercollora.com
pcirel@dwyercollora.com

Dated: December 24, 2009

CERTIFICATE OF SERVICE

I, Jennifer M. Ryan, hereby certify that a true and correct copy of this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on December 24, 2009.

/s/ Jennifer M. Ryan

Jennifer M. Ryan